

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA,	§	
	§	
	§	
V.	§	Cr. No. C-04-38 (1)
	§	
	§	
ISRAEL SALINAS-CAPISTRAN.	§	

MEMORANDUM OPINION AND ORDER
DENYING MOTION TO REDUCE SENTENCE

Pending before the Court is Israel Salinas-Capistran's motion titled as a "Pro Se Nunc Pro Tunc Motion to Resentence Defendant Pursuant to U.S.S.G. § 5C1.2." (D.E. 38). In it, he claims that he should have received the benefit of the safety valve at his sentencing, and asks that the Court resentence him or enter an emended judgment giving him that relief.

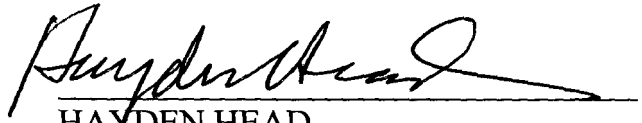
As an initial matter, the Court notes that the Fifth Circuit has already rejected Salinas-Capistran's claim that this Court erred in not granting him safety valve relief. (D.E. 35). His petition for writ of certiorari has been denied. (D.E. 37). Thus, this issue has already been decided against him.

Moreover, this Court has authority to modify or correct a previously imposed sentence only in the "limited number of circumstances" set out in 18 U.S.C. § 3582(c). United States v. Bridges, 116 F.3d 1110, 1112 (5th Cir. 1997). These circumstances are limited to the following: (1) when the Bureau of Prisons moves the Court to modify the sentence for reasons outlined in § 3582(c)(1), (2) under Fed. R. Crim. P. 35 (on the government's motion due to substantial assistance or to correct a clerical mistake within seven days of the date the

sentence was imposed), and (3) when the guidelines under which the defendant was sentenced have been subsequently lowered, and a modification of sentence is consistent with the guidelines' policy statements. See § 3582(c).

Salinas-Capistran fails to assert grounds for modification that fall into any of the categories set forth in the preceding paragraph. Thus, this Court does not have authority to alter his sentence. Accordingly, Defendant's motion to reduce sentence is DENIED.

ORDERED this 29 day of April 2006.


HAYDEN HEAD
CHIEF JUDGE